

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

V.

CRIMINAL NO. 22-409 (SCC)

[4] ANGEL PIETRI-VELAZQUEZ,

Defendant.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING

I. Procedural Background:

On September 14, 2022, defendant Angel Pietri-Velazquez was charged in a multi-defendant, multi-count indictment. (Docket No. 3). He agreed to plead guilty to Counts One and Six of said indictment.

Count One charges that from a date unknown during the year 2019 and continuing up to and until the return of the instant indictment, in the Municipality of Yauco, in the District of Puerto Rico, and within the jurisdiction of this Court, Mr. Pietri-Velazquez and other members of the drug trafficking organization, did knowingly and intentionally combine, conspire, and agree with each other and with diverse other persons known and unknown to the Grand Jury, to commit an offense against the United States, that is to knowingly and intentionally distribute and distribute controlled substances, to wit: in

1 excess of two hundred and eighty (280) grams or more of a mixture or substance
2 containing a detectable amount of cocaine base (crack), a Schedule II Narcotic Drug
3 Controlled Substance; one (1) kilogram of a mixture or substance containing a detectable
4 amount of heroine, a Schedule I Narcotic Drug Controlled; five (5) kilograms of a mixture
5 or substance containing a detectable amount of cocaine, a Schedule II Controlled
6 Substance; less than 50 kilograms of marihuana of a mixture or a substance containing
7 a detectable amount of marijuana, a Schedule I Controlled Substance, within one
8 thousand (1,000) feet of the real property of the Santa Catalina Public Housing Project,
9 a housing facility owned by a public housing authority, and others areas nearby. All in
10 violation of Title 21, U.S.C. §§ 841(a)(1), 846, and 860.

13 Count Six charges that from a date unknown during the year 2019 and continuing
14 up to and until the return of the instant indictment, in the Municipality of Yauco, in the
15 District of Puerto Rico, and elsewhere within the jurisdiction of this Court, Mr. Pietri-
16 Velazquez and other members of the drug trafficking organization, did knowingly and
17 unlawfully possess firearms, of unknown make and caliber, as that term is defined in 18
18 U.S.C. §921(a)(3), in furtherance of a drug trafficking crime for which they may be
19 prosecuted in a Court of the United States, that is, possession with intent to distribute
20 controlled substances in violation of 21 U.S.C. §841(a)(1). All in violation of Title 18,
21 U.S.C. § 924(c)(1)(A).

23 Defendant appeared before me, assisted by the court interpreter, on June 25,
24 2024, after the Rule 11 hearing was referred to me by the Presiding District Judge. See
25 *United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had
26 authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was
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1 advised of the purpose of the hearing and placed under oath with instructions that his
2 answers must be truthful lest he subject himself to possible charges of perjury or making
3 a false statement.
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5 **II. Consent to Proceed Before a Magistrate Judge:**

6 Defendant was provided with a Waiver of Right to Trial by Jury form, which he
7 signed.¹ He was advised of his right to hold all proceedings, including the change of plea
8 hearing, before a district court judge. He received an explanation of the differences
9 between the scope of jurisdiction and functions of a district judge and a magistrate judge.
10 He was informed that if he elected to proceed before me, a magistrate judge, that I would
11 conduct the hearing and prepare a report and recommendation, subject to review and
12 approval of the district judge. The defendant then voluntarily consented to proceed
13 before me.
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15 **III. Proceedings Under Rule 11 of the Federal Rules of Criminal
16 Procedure:**

17 Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of
18 guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty
19 to constitute a valid waiver of the defendant's right to trial, the guilty plea must be
20 knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999).
21 “Rule 11 was intended to ensure that a defendant who pleads guilty does so with an
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26 ¹ The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for
27 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is
made part of the record.
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1 ‘understanding of the nature of the charge and consequences of his plea.’’ *United States*
2 *v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (*quoting McCarthy v. United States*, 394 U.S.
3 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of
4 coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the
5 guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (*citing United States v. Allard*, 926 F.2d 1237, 1244
6 (1st Cir. 1991)).

8 **A. Competence to Enter a Guilty Plea**

9 I questioned the defendant about his age, education, employment, history of any
10 treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and
11 his understanding of the purpose of the hearing, all in order to ascertain his capacity to
12 understand, answer and comprehend the change of plea colloquy. I confirmed that the
13 defendant received the indictment and fully discussed the charges with his attorney and
14 was satisfied with the advice and representation he received. In addition, I further
15 inquired whether defendant’s counsel or counsel for the government had any doubt as to
16 his capacity to plead, receiving answers from both that the defendant was competent to
17 enter a plea. After considering the defendant’s responses, and observing his demeanor,
18 a finding was made that Mr. Pietri-Velazquez was competent to plead and fully aware of
19 the purpose of the hearing.

22 **B. Maximum Penalties**

23 Upon questioning, the defendant expressed his understanding of the maximum
24 and minimum penalties prescribed by statute for the offense to which he was pleading
25 guilty, namely for Count One: a term of imprisonment shall not be less than ten (10)
26 years and up to life, a fine not to exceed twenty million dollars (\$20,000,000.00), and a
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1 supervised release term of not less than ten (10) years in addition to any term of
2 incarceration. However, based on the stipulated and agreed amount of narcotic
3 possessed by the defendant, that is, at least 3.5 kilograms but less than 5 kilograms of
4 cocaine, he was explained and understood that he was exposed to a minimum term of
5 imprisonment of no less than five (5) years and not more than eighty (80) years, a fine
6 not to exceed ten million dollars (\$10,000,000.00), and a supervised release term of at
7 least eight (8) years in addition to any term of incarceration. As for Count Six: a term of
8 imprisonment not less than five (5) years and a maximum of life, a fine not to exceed two
9 hundred and fifty thousand dollars (\$250,000.00), and a supervised release term of not
10 more than five (5) years in addition to any term of incarceration.

13 The defendant also understood that a Special Monetary Assessment of \$100.00
14 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United
15 States Code, Section 3013(a). The court explained the nature of supervised release and
16 the consequences of revocation. The defendant indicated that he understood the
17 maximum and minimum penalties for Counts One and Six and the potential
18 consequences of the guilty plea.

20 **C. Plea Agreement**

21 Mr. Pietri-Velazquez was shown his plea agreement, and the plea agreement
22 supplement, which are part of the record, and identified his initials and signatures. He
23 confirmed that he had the opportunity to read and discuss the plea agreement with his
24 attorney before he signed it, that it represented the entirety of his understanding with
25 the government, that he understood its terms, and that no one had made any other or
26 different promises or assurances to induce him to plead guilty.

1 The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B) and
2 expressed his understanding that the terms of the plea agreement are merely
3 recommendations to the court, and that the district judge who will preside over the
4 sentencing hearing can reject the recommendation without permitting the defendant to
5 withdraw his guilty plea, and impose a sentence that is more severe than the defendant
6 might anticipate. The defendant was specifically informed that the court, after
7 considering the applicable Sentencing Guidelines, could impose a sentence different
8 from any estimate in the plea agreement or provided by his attorney, and that the court
9 had the authority to impose a sentence that is more severe or less severe than the
10 sentence called for by the Sentencing Guidelines. The defendant was advised, and
11 understood, that the Sentencing Guidelines are no longer mandatory and are thus
12 considered advisory, and that during sentencing the court will consider the sentencing
13 criteria found at Title 18, United States Code, Section 3553(a).
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15 The defendant was advised that under some circumstances he or the government
16 may have the right to appeal the sentence the court imposes, but that pursuant to the
17 plea agreement the defendant will waive his right to appeal both his sentence and his
18 conviction if the court adopts the plea agreement and sentences him according to its
19 terms and conditions.
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21 **D. Waiver of Constitutional Rights**

22 The defendant was specifically advised that he has the right to persist in a plea of
23 not guilty, and if he does so persist that he has the right to a speedy and public trial by
24 jury, or trial before a judge sitting without a jury if the court and the government so agree;
25 that at trial he would be presumed innocent and the government would have to prove his
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1 guilt beyond a reasonable doubt; that he would have the right to the assistance of counsel
2 for his defense, and if he could not afford an attorney the court would appoint one to
3 represent him throughout all stages of the proceedings; that at trial he would have the
4 right to hear and cross examine the government's witnesses, the right to decline to testify
5 unless he voluntarily elected to do so, and the right to the issuance of subpoenas or
6 compulsory process to compel the attendance of witnesses to testify. He was further
7 informed that if he decided not to testify or put on evidence at trial, the failure to do so
8 could not be used against him, and that at trial the jury must return a unanimous verdict
9 before he could be found guilty or not guilty.
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11 The defendant specifically acknowledged understanding these rights and
12 understanding that by entering a plea of guilty there would be no trial and he will be
13 waiving or giving up the rights I explained.
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15 The defendant was informed that parole has been abolished and that any sentence
16 of imprisonment must be served, and that his guilty plea may result in loss of important
17 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to
18 possess a firearm. The defendant confirmed that she understood these consequences of
19 the guilty plea.
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21 **E. Factual Basis for the Guilty Plea**

22 Defendant was read in open court Counts One and Six of the indictment and
23 provided an explanation of the elements of the offense. The meaning of terms used in the
24 indictment was explained.
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26 Upon questioning, the defendant admitted to facts constituting all of the elements
27 of the offense charged in Counts One and Six and that the evidence the government had
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1 available to establish, in the event defendant elected to go to trial, the defendant's guilt
2 beyond a reasonable doubt.

3 **F. Voluntariness**

4 The defendant indicated that he was not being forced to plead guilty but was
5 entering such a plea freely and voluntarily because in fact he is guilty, and that no one
6 had threatened him or offered a thing of value in exchange for his plea. He acknowledged
7 that no one had made any different or other promises in exchange for his guilty plea,
8 other than the recommendations set forth in the plea agreement. Throughout the hearing
9 the defendant was able to consult with his attorney.

10 **IV. Conclusion:**

11 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal
12 Rules of Criminal Procedure, and entered a plea of guilty as to Counts One and Six of the
13 indictment. After cautioning and examining the defendant under oath and in open court
14 concerning each of the subject matters mentioned in Rule 11, I find that the defendant,
15 Angel Pietri-Velazquez is competent to enter this guilty plea, is aware of the nature of the
16 offense charged and the maximum statutory penalties that it carries, understands that
17 the charge is supported by evidence and a basis in fact, has admitted to the elements of
18 the offense, and has done so in an intelligent and voluntary manner with full knowledge
19 of the consequences of his guilty plea. Therefore, I recommend that the court accept the
20 guilty plea and that the defendant be adjudged guilty as to Counts One and Six of the
21 indictment.

22 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and
23 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific

1 and must be filed with the Clerk of Court **within 10 days**. Failure to file timely and
2 specific objections to the report and recommendation is a waiver of the right to appellate
3 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,
4 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d
5 985 (1st Cir. 1988); *Borden v. Sec'y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.
6 1987).

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8 **IT IS SO RECOMMENDED**

9 In San Juan, Puerto Rico this 25th day of June, 2024.

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11 S/Héctor L. Ramos-Vega
HÉCTOR L. RAMOS-VEGA
12 UNITED STATES MAGISTRATE JUDGE

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